

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES COMMODITY
FUTURES TRADING COMMISSION,

Plaintiff,

V.

Civil Action No. A-12-CV-0862-LY

SENEN POUSA, INVESTMENT
INTELLIGENCE CORPORATION,
DBA PROPHETMAX MANAGED FX,
JOEL FRIANT, MICHAEL DILLARD, and
ELEVATION GROUP, INC.,

Defendants.

RECEIVER'S STATUS REPORT

Guy M. Hohmann, the Court-appointed Receiver in this action (“Receiver”), respectfully files this report to inform the Court of developments in the above-captioned matter.

Over the past few months, the Division of Enforcement of the CFTC, the Receiver, counsel for defendants in the related action filed by the CFTC against IB Capital and its principals,¹ and governmental agencies in the Netherlands have been actively negotiating the terms of a Consent Order of Permanent Injunction, Monetary Penalty and Other Equitable Relief against the IB Capital Defendants (“Consent Order”). Pursuant to the Consent Order, the terms of which have been agreed to in principal, the IB Capital Defendants have agreed to payment of certain restitution

¹ *U.S. Commodity Futures Trading Commission v. IB Capital FX, LLC (a/k/a IB Capital FX (NZ) LLP) d/b/a IB Capital, Michel Geurkink, and Emad Echadi*, United States District Court for the Western District of Texas, Austin, Case No. 1:15-cv-01022-LY. IB Capital, Michel Geurkink and Emad Echadi are collectively referred to herein as the “IB Capital Defendants.”

and civil monetary penalties. It is likely that the restitution payments will be made in part with amounts held in the Netherlands, and through their agreement with the terms of the Consent Order, the IB Capital Defendants would not oppose repatriation of funds held in the Netherlands to the Receiver. The CFTC is currently reviewing and approving the terms of the Consent Order recommended by its Division of Enforcement, which could take up to two months and potentially longer. As soon as the Consent Order is approved by the CFTC, the parties will jointly file a motion for entry of the order.

In the meantime, the parties are working expeditiously to effectuate the repatriation of funds held in the Netherlands for distribution to investors. The parties in the Netherlands have not yet given firm agreement regarding amounts to be repatriated to the U.S. nor whether those amounts will be released to the Receiver for distribution. However, the Receiver is confident that the amount repatriated will allow investors to recover a significantly greater amount given the total amount of claims currently on record. Moreover, he is hopeful that the agencies in the Netherlands will agree with the suggestion of the Receiver and U.S. agencies to release the funds to the Receiver and National Futures Association, as they are already poised to conduct their distribution and are in the most efficient and cost-sensitive position to distribute any additional funds.

In light of the recent movement in the related IB Capital matter, the Receiver plans to continue to hold onto a distribution of funds currently in his possession, as one final distribution of all funds recovered in this matter looks to be increasingly possible and forthcoming. The Receiver will continue to keep the Court apprised of any other major developments in the related IB Capital matter, as well as the status of the Receiver's anticipated distribution, in the near future.

Respectfully submitted,

HOHMANN, BROPHY & SHELTON, PLLC

By: /s/ Carrie Puccia

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**ATTORNEY FOR GUY M. HOHMANN
IN HIS CAPACITY AS RECEIVER FOR
THE PROPHETMAX RECEIVERSHIP
ESTATE**

CERTIFICATE OF SERVICE

On July 20, 2016, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Western District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Carrie Puccia

Carrie Puccia